

REMARKS

The claims remaining in the present application are Claims 1-40. Claims 1-40 stand rejected. Claims 1- 5, 9, 10, 16, 26, and 33 have been amended herein. Support for the amendment to independent Claims 1, 10, 16, 26, and 33 can be found at least in the first paragraph of page 12 of the instant application, which states in part that

...the present embodiment enables the transmission of data from sender 301 to receiver 309 via the identified plurality of access points (e.g., 305 and 307) using a predetermined multi-access point transmission scheme. In the present embodiment, data is transmitted in a pattern that corresponds to the transmission scheme that is employed,... (emphasis added).

CLAIM REJECTIONS

35 U.S.C. §103

Claims 1- 3, 6, 7, 9-12, 15-18, 20, 25, 26, 29, 30, 32-34, 37, 38, and 40

The instant Office Action, states that Claims 1- 3, 6, 7, 9-12, 15-18, 20, 25, 26, 29, 30, 32-34, 37, 38, and 40 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,594,245 by Rimhagen et al. (referred to hereinafter as "Rimhagen") in view of U.S. Patent Application Publication No. 2003/0009576 by Apostolopoulos et al. (, referred to hereinafter as "Apostolopoulos"). Applicants have reviewed the cited references and respectfully submits that the embodiments of the present invention as recited in Claims 1- 3, 6, 7, 9-12, 15-18, 20, 25, 26, 29, 30, 32-34, 37, 38, and 40 are patentable over Rimhagen in view of Apostolopoulos for at least the following rationale.

Amended independent Claim 1 recites (emphasis added),

A method for delivering data, in a wireless system comprising a distributed infrastructure of access points, said method comprising:
identifying a plurality of access points to be used cooperatively in combination with each other for the transmission of said data to a receiver, wherein said cooperative usage of said plurality of access points is maintained for at least some portion of a data transmission period;

enabling the transmission of said data to said receiver via said plurality of access points, wherein said data is transmitted in a predetermined pattern that uses at least two access points during at least some portion of said data transmission period; and

determining, during the transmission, performance of at least one of said access points being used for the transmission to enable transmitting at least a portion of said data through a different access point while the transmission is in progress.

Independent Claims 10, 16, 25 and 33 include similar recitations. Claims 2, 3, 6, 7, and 9 that depend from independent Claim 1, Claims 11, 12 and 15 that depend from independent Claim 10, Claims 17, 18 and 20 that depend from Claim 16, Claims 26, 29, 30, and 32 that depend from independent Claim 25, and Claims 34, 37, 38, and 40 that depend from Claim 33 also include these recitations.

Applicants respectfully note that in the instant Office Action, page 4, 3rd paragraph, paragraph 148 of Apostolopoulos has been equated to read, "as a mobile client moves away from one base station and towards another base station, the channel quality of the first base station and the second base station decreases and increases, respectively. When in region B, the second station rises above the add-threshold and as a result simultaneous communication between both base stations is established."

Although the Office Action cites paragraph 148 as the above reference, Applicants assume the reference to be paragraph 149 of Apostolopoulos since the above reading more closely resembles the content of paragraph 149.

Applicants respectfully assert that the combination of Rimhagen and Apostolopoulos does not teach, describe or suggest the invention as claimed because the combination of the Rimhagen and Apostolopoulos does not satisfy the requirements of a *prima facie* case of obviousness. In order to establish a *prima facie* case of obviousness, "the prior art reference (or references when combined) must teach or suggest all the claim limitations." (MPEP 2142). Applicants respectfully note that "[a] prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention" (emphasis in original; MPEP 2141.03(IV); *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984)).

First, Applicants respectfully submit that Rimhagen in view of Apostolopoulos does not teach or suggest, "enabling the transmission of said data to said receiver via said plurality of access points, wherein said data is transmitted in a predetermined pattern that uses at least two access points during at least some

portion of said data transmission period,” (emphasis added) as recited by Claim 1 and similarly in Claims 10, 16, 25, and 33.

Applicants understand Rimhagen to teach a method and system for enabling a remote communication station to engage multiple communication stations. For example, Rimhagen teaches at column 1, line 61, to column 2, line 9, that multiple communication stations may be used if the single communication station that is selected can not accommodate the requested bandwidth. Rimhagen teaches using multiple communication stations when a single communication station will not suffice. However, nowhere does Rimhagen teach “enabling the transmission of said data..., wherein said data is transmitted in a predetermined pattern...” as recited by Claim 1 and similarly in Claims 10, 16, 25, and 33.

Moreover, Applicants submit that Apostolopoulos does not overcome shortcomings of Rimhagen. Applicants submit that Apostolopoulos does not teach or suggest a modification to Rimhagen that remedies the deficiencies of Rimhagen noted above. More specifically, Apostolopoulos does not teach, describe or suggest “enabling the transmission of said data..., wherein said data is transmitted in a predetermined pattern...” Applicants respectfully submit that Apostolopoulos is silent to the transmission of data in a predetermined pattern. Therefore, independent Claims 1, 10, 16, 25, and 33 are patentable over Rimhagen in view of Apostolopoulos.

Second, currently amended independent Claims 10, 16, and 33 and previously amended independent Claim 25 recite a “delivering data utilizing...” or a “plurality of access points utilizing at least one predetermined multi-access point transmission scheme....” Applicants understand Rimhagen to teach a method and system for enabling a remote communication station (RCS) to engage multiple communication stations (CSs). For example, at column 1, line 61, to column 2, line 9, Applicants understand Rimhagen to teach that multiple CSs may be used if the single CS that is selected cannot accommodate the requested bandwidth. Multiple CSs may be used when a single CS will not suffice. In particular, Rimhagen does not teach “delivering data utilizing...” or a “plurality of access points utilizing at least one predetermined multi-access point transmission scheme...” as recited by Claims 10, 16, 25, and 33.

Furthermore, Apostolopoulos does not teach, describe or suggest a modification to Rimhagen that remedies the deficiencies of Rimhagen noted above. Apostolopoulos upon review is silent to "delivering data utilizing..." or a "plurality of access points utilizing at least one predetermined multi-access point transmission scheme..."

Applicants respectfully assert that Rimhagen in view of Apostolopoulos does not teach, disclose or suggest the claimed embodiments of the present invention as recited in independent Claims 1, 10, 16, 25 and 33, that these claims overcome the rejection under 35 U.S.C. § 103(a), and that these claims are thus in a condition for allowance. Therefore, Applicants respectfully submit that Rimhagen in view of Apostolopoulos also does not teach or suggest the additional claimed features of the present invention as recited in Claims 2, 3, 6, 7, and 9 that depend from independent Claim 1, Claims 11, 12, and 15 that depend from independent Claim 10, Claims 17, 18 and 20 that depend from Claim 16, Claims 26, 29, 30, and 32 that depend from independent Claim 25, and Claims 34, 37, 38, and 40 that depend from Claim 33. Therefore, Applicants respectfully submit that Claims 2, 3, 6, 7, 9, 11, 12, 15, 17, 18, 20, 26, 29, 30, 32, 34, 37, 38, and 40 also overcome the rejection under 35 U.S.C. § 103(a), and are in a condition for allowance as being dependent on allowable base claims.

Claims 4, 5, 13, 14, 19, 21- 24, 27, 28, 31, 35, 36, and 39

In page 13 of the Office Action, Claims 4, 5, 13, 14, 19, 21- 24, 27, 28, 31, 35, 36, and 39 are rejected under 35 U.S.C. §103(a) as being unpatentable over Rimhagen in view of Apostolopoulos. Applicants assume that Claims 4, 5, 13, 14, 19, 21- 24, 27, 28, 31, 35, 36, and 39 are rejected under 35 U.S.C. §103(a) as being unpatentable further in view of U.S. Patent Application Publication No. 2002/0085498 by Nakamichi et al. (referred to hereinafter as "Nakamichi"), since arguments presented in the Office Action refer to Nakamichi.

Applicants assume that the replication on page 16 of the Office Action of "Consider claim 22 and as applied to claim 18" should read "Consider claim 23 and as applied to claim 18."

Applicants have reviewed the cited references and respectfully submits that the embodiments of the present invention as are recited in Claims 4, 5, 13, 14, 19,

21- 24, 27, 28, 31, 35, 36, and 39 are neither anticipated nor rendered obvious by Rimhagen in view of Apostolopoulos, further in view of Nakamichi for at least the following rationale.

Claims 4 and 5 are dependent on independent Claim 1; Claims 13 and 14 are dependent on independent Claim 10; Claims 19 and 21-24 are dependent on independent Claim 16; Claims 27, 28, and 31 are dependent on independent Claim 25; and Claims 35, 36, and 39 are dependent on independent Claim 33. Hence, by demonstrating that the combination of references does not show or suggest the embodiments of Claims 1, 10, 16, 25, and 33, it is also demonstrated that the combination of references does not show or suggest the embodiments of Claims 4, 5, 13, 14, 19, 21-24, 27, 28, 31, 35, 36, and 39.

As presented above, Applicants respectfully submit that the combination of Rimhagen and Apostolopoulos does not show or suggest the embodiments of independent Claims 1, 10, 16, 25, and 33. Applicants further submit that Nakamichi does not overcome the shortcomings of Rimhagen and Apostolopoulos.

Applicants understand Nakamichi to disclose a device and method for collecting traffic information. In particular, Applicants respectfully submit that Nakamichi does not teach, describe or suggest “enabling the transmission of said data to said receiver via said plurality of access points, wherein said data is transmitted in a predetermined pattern that uses at least two access points during at least some portion of said data transmission period” (emphasis added) as claimed.

Referring to paragraph [0041], Applicants understand Nakamichi to teach when the traffic amount of a certain route is increased, the router searches another route directing to the same destination. In particular, Applicants respectfully submit that searching for another route is not equivalent to the claimed “data is transmitted in a predetermined pattern”. Moreover, by disclosing that a router searches for another route, Applicants respectfully submit that Nakamichi teaches away from “enabling the transmission of said data to said receiver via said plurality of access points, wherein said data is transmitted in a predetermined pattern that uses at least two access points during at least some portion of said data transmission period” (emphasis added) as claimed.

In view of the combination of Rimahagen in view Apostolopoulos, further in view of Nakamichi not satisfying the requirements of a prima facie case of obviousness, Applicants respectfully submit that independent Claims 1, 10, 16, 25, and 33 overcome the rejection under 35 U.S.C. § 103(a), and that these claims are thus in a condition for allowance. Applicants respectfully submit the combination of Rimahagen in view Apostolopoulos, further in view of Nakamichi also does not teach or suggest the additional claimed features of the present invention as recited in Claims 13 and 14 that depend from independent Claim 1, Claims 19 and 21-24 that depend from independent Claim 16, Claims 27, 28, and 31 that depend from independent Claim 25, and Claims 35, 36, and 39 that depend from independent Claim 33. Therefore, Applicants respectfully submit that Claims 4, 5, 13, 14, 19, 21-24, 27, 28, 31, 35, 36, and 39 also overcome the rejection under 35 U.S.C. § 103(a), and are in a condition for allowance as being dependent on an allowable base claim.

CONCLUSION

In light of the above listed amendments and remarks, reconsideration of the rejected claims is requested. Based on the arguments and amendments presented above, it is respectfully submitted that Claims 1-40 overcome the rejections of record. For reasons discussed herein, Applicants respectfully request that Claims 1-40 be considered by the Examiner. Therefore, allowance of Claims 1-40 is respectfully solicited.

Should the Examiner have a question regarding the instant amendment and response, the Applicants invite the Examiner to contact the Applicants' undersigned representative at the below listed telephone number.

Dated: 10/7/, 2007

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Respectfully submitted,
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